

§ 1905.16 Consolidation of proceedings.

The Assistant Secretary on his own motion or that of any party may consolidate or contemporaneously consider two or more proceedings which involve the same or closely related issues.

Subpart C—Hearings

§ 1905.20 Notice of hearing.

(a) *Service.* Upon request for a hearing as provided in this part, or upon his own initiative, the Assistant Secretary shall serve, or cause to be served, a reasonable notice of hearing.

(b) *Contents.* A notice of hearing served under paragraph (a) of this section shall include:

- (1) The time, place, and nature of the hearing;
- (2) The legal authority under which the hearing is to be held;
- (3) A specification of issues of fact and law; and
- (4) A designation of a hearing examiner appointed under 5 U.S.C. 3105 to preside over the hearing.

(c) *Referral to hearing examiner.* A copy of a notice of hearing served pursuant to paragraph (a) of this section shall be referred to the hearing examiner designated therein, together with the original application and any written request for a hearing thereon filed pursuant to this part.

§ 1905.21 Manner of service.

Service of any document upon any party may be made by personal delivery of, or by mailing, a copy of the document to the last known address of the party. The person serving the document shall certify to the manner and the date of the service.

§ 1905.22 Hearing examiners; powers and duties.

(a) *Powers.* A hearing examiner designated to preside over a hearing shall have all powers necessary or appropriate to conduct a fair, full, and impartial hearing, including the following:

- (1) To administer oaths and affirmations;
- (2) To rule upon offers of proof and receive relevant evidence;

(3) To provide for discovery and to determine its scope;

(4) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(5) To consider and rule upon procedural requests;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To make, or to cause to be made, an inspection of the employment or place of employment involved.

(8) To make decisions in accordance with the Act, this part, and the Administrative Procedure Act (5 U.S.C. Ch. 5); and

(9) To take any other appropriate action authorized by the Act, this part, or the Administrative Procedure Act.

(b) *Private consultation.* Except to the extent required for the disposition of ex parte matters, a hearing examiner may not consult a person or a party on any fact at issue, unless upon notice and opportunity for all parties to participate.

(c) *Disqualification.* (1) When a hearing examiner deems himself disqualified to preside over a particular hearing, he shall withdraw therefrom by notice on the record directed to the Chief Hearing Examiner.

(2) Any party who deems a hearing examiner for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the Chief Hearing Examiner of the Department of Labor a motion to disqualify and remove the hearing examiner, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Chief Hearing Examiner shall rule upon the motion.

(d) *Contumacious conduct; failure or refusal to appear or obey the rulings of a presiding hearing examiner.* (1) Contumacious conduct at any hearing before the hearing examiner shall be grounds for exclusion from the hearing.

(2) If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant